

REMARKS

By this amendment, claims 1, 2, and 5-21 are pending, in which claims 3 and 4 are canceled without prejudice or disclaimer, claims 1, 2, 11, and 18 are currently amended, and claim 21 is newly presented. No new matter is introduced.

The Office Action mailed September 26, 2008 rejected claims 1, 3, and 12 under 35 U.S.C. § 102(b) as anticipated by *Tanaka* (JP 63009598 Y2), claims 2, 4, and 13-19 under 35 U.S.C. § 102(b) as anticipated by *Yoshida* (EP 1462233 A1), claims 1, 3, 5, and 7-10 under 35 U.S.C. § 103(a) as obvious based on *Kochesky et al.* (US 5,284,704), claim 6 under 35 U.S.C. § 103(a) as obvious based on *Kochesky et al.* in view of *Tanaka*, and claims 11 and 20 under 35 U.S.C. § 103(a) as obvious based on *Kochesky et al.* in view of *Yoshida*. Additionally, claims 11 and 18 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite.

With regard to the rejection of claims 11 and 18 under the second paragraph of 35 U.S.C. § 112, the rejection is believed to have been overcome in view of the claim amendment. If, however, the Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work with the Examiner in a joint effort to derive mutually satisfactory claim language.

To reduce the issues for potential appeal, Applicants have amended independent claims 1 and 2. Claims 1 and 2 now recite, *inter alia*, “wherein said non-woven fabric . . . **is cooled, while maintaining compression**, to a temperature lower than said softening temperature of said first component, such that **a solidified state of said first component restrains said second component in a compressed state** to maintain an elastic restoring force of said second component.” Further, independent claim 13 recites, *inter alia*, “a step of **cooling** said non-woven fabric to a temperature lower than the softening temperature of said first component **in a**

compressed state.” Applicants submit that neither *Tanaka* nor *Yoshida* expressly teach, or even remotely suggest, the aforementioned features.

At best, *Tanaka* merely teaches, in the fifth paragraph of the Translated Abstract, a cushioning material including: a first fibrous layer comprising heat-resistant aromatic polyamide without use of a binding agent, and a second fibrous layer comprising 6-6 nylon without use of a binding agent. A surface of the first fibrous layer may be **pressed** by a **heat roll** at 375 to 415°C. It is noted that the 6-6 nylon has a melting point of 250°C, which is lower than the melting temperature of the aromatic polyamide fiber; however, the melting point (or melting point range) of the aromatic polyamide is not disclosed. Thus, while the first fibrous layer may be cooled to allow a longitudinal 6-6 nylon entanglement portion to be fused to the first fibrous layer after it melts, *Tanaka* is silent as to “cooling, while maintain compression,” as well as silent as to “a solidified state of said first component restrains said second component in a compressed state to maintain an elastic restoring force of said second component.”

Likewise, *Yoshida* is also devoid of these features. *Yoshida* merely discloses a cushioning pad for hot pressing including a non-woven fabric that may be obtained by laminating two fabric webs on the upper and lower faces of a base fabric, all of which may be integrated via needle-punching, (¶ [0023]). It is noted that while the nonwoven fabric may be subjected to compression treatments (*see, e.g.*, ¶ [0034]), no general temperature (or range of temperatures) is disclosed for these compression treatments. In the various illustrative examples, however, a form of compression is taught via a pressurizing plate at 185°C, i.e., a temperature that is lower than the decomposition temperatures of both Fiber A and Fiber B, (¶ [0056]). Thus, while the nonwoven fiber of *Yoshida* may be cooled after compression via the pressurizing plate, there is no express teaching, or even remote suggestion, that the nonwoven fabric “is cooled, while maintaining compression,” much less that “a solidified state of said first

component restrains said second component in a compressed state to maintain an elastic restoring force of said second component.”

Since the factual determination of lack of novelty under 35 U.S.C. § 102(b) requires the **identical disclosure** in a single reference of **each element** of a claimed invention, such that the **identically disclosed invention** is placed into the recognized possession of one having ordinary skill in the art, the anticipation rejections over *Tanaka* or *Yoshida* are unsustainable.

Furthermore, the addition of *Kochesky et al.* does not cure the deficiencies within either of *Tanaka* or *Yoshida*. The Office Action, on pages 3 through 5, relies on *Kochesky et al.* for supposedly teaching “a nonwoven fabric made from bicomponent fibers having a polyester core polymer surrounded by a polyester sheath polymer, the fibers are needled and heat treated,” and “a blend of bicomponent polyester fibers and other fibers selected from the group consisting of rayon, nylon, acrylic, and wool fibers.”

Hence, the obviousness rejections should be withdrawn.

Referring now to new claim 21, claim 21 depends from independent claim 1 and recites, “wherein when said non-woven fabric is compressed, said non-woven fabric is compressed from a first predetermined thickness to a second predetermined thickness, such that after said non-woven fabric is cooled and compression is released, said non-woven fabric is of a third predetermined thickness, said third predetermined thickness being less than said first predetermined thickness and greater than or equal to said second predetermined thickness.” Claim 21 is allowable, in part, because of its dependency on allowable claim 1.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the

undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,
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January 26, 2009
Date

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